

Notice of Allowability	Application No.	Applicant(s)	
	10/814,683	ROTHBARTH ET AL.	
	Examiner Wilson Lee	Art Unit 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 1/17/08.
2. The allowed claim(s) is/are 1,3-17,22 and 23.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

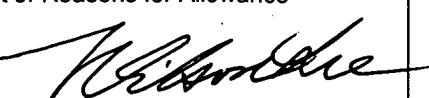
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application
6. Interview Summary (PTO-413),
Paper No./Mail Date 1/17/08.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.



Wilson Lee
Primary Examiner
Art Unit: 2163

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Frank Agovino on January 17, 2008.

The claims are amended as follows:

1. (Currently amended) A tangible computer readable storage medium having computer executable instructions being executed by a processor for facilitating the transfer of back-up copies of one or more files from a first computer to a second computer via a communications network including the Internet and-or via a portable computer readable storage medium, comprising:

instructions for designating files from the first computer for which back-up copies will be transferred to the second computer, said the first computer and said second computer being Internet-enabled;

instructions for receiving, at the first computer, user input defining destination identification data;

instructions for identifying an Internet location of the second computer as a function of the defined identification data;

instructions for determining a total size of the designated files being transferred from the first computer to the second computer;

instructions for indicating whether to transfer the designated files from the first computer to the second computer via the network or whether to transfer the files from the first computer to the second computer via the portable computer readable storage medium based on the determined total size of the designated files being transferred;

instructions for selectively transferring, based on [[a]] the instructions for indicating, total size of the files being transferred, the designated files from the first computer to the second computer via the network or from the first computer to the second computer via [[to]] the portable computer readable medium;

wherein either the designated files are directly transferred from the first computer to the second computer at the identified location via the Internet and not via the portable computer readable storage medium or the designated files are transferred from the first computer to the second computer via the portable computer readable storage medium and not via the Internet when a total size of the files being transferred is less than a target amount, said instructions for selectively transferring including instructions for causing, during file transfer, the second computer to be directly accessed via the Internet, without establishing communication via a server, by the first computer and without passing through any intermediate computer between the first and second computer, and

— wherein the designated files are transferred from the first computer directly to the portable computer readable storage medium when the total size of the files being transferred is greater than the target amount;

— receiving, at the second computer, the selectively transferred files, wherein said received files includes authentication data for determining whether the first computer is authorized to store back-up copies on the second computer; and

— storing, at the second computer, the received files when the first computer is determined to be authorized.

2. (Canceled).
3. (Currently amended) The medium of claim [[1]] 23 wherein the instructions for receiving, at the second computer, include:

instructions for transferring the files from the portable computer readable storage medium directly to the second computer for storage.

4. (Previously presented) The medium of claim 1, wherein instructions for designating files includes instructions for displaying a first input form on a display linked to the first computer, said first input form receiving input data from a user, and said input data designating the one or more files to be copied and transferred to the second computer.

5. (Currently amended) The medium of claim 1, wherein instructions for selectively transferring files include instructions for encrypting the designated files prior to transferring the designated files to the portable computer readable storage medium or to the second computer.

6. (Currently amended) The medium of claim 1 wherein instructions for selectively transferring files further includes transferring authentication data to the portable computer readable storage medium when the designated files are transferred from the

first computer to the second computer via the portable computer readable storage medium and not via the Internet the total size of the files being transferred is greater than the target size.

7. (Previously presented) The medium of claim 6, wherein the instructions for receiving includes retrieving first authentication data from the portable computer readable storage medium and instructions for retrieving second authentication data from the second computer, wherein said first authentication data defines a first password and said second authentication data defines a second password, and instructions for comparing the first password to the second password to determine if the passwords match, and wherein the one or more files are stored on the second computer if the first and second passwords are determined to match.

8. (Previously presented): The medium of claim 7 further including instructions for: retrieving, at the second computer, a first identification tag from the portable computer readable storage medium, said identification tag being randomly generated by the first computer to identify the one or more files to be transferred from the portable computer readable storage medium to the second computer;

sending an authentication request including the first identification tag to the first computer via the communication network;

receiving, at the first computer, the authentication request and the first identification tag;

comparing, at the first computer, the received first identification tag with an second identification tag being stored on the originating computer to determine if the

tags match, wherein the second identification tag corresponds to a tag previously generated by the first computer to identify a particular file or particular set files being transferred to a portable computer readable storage medium;

requesting, at the first computer, input from an originating user to confirm back-up is authorized if there is a matching tag;

sending a reply including the user input to the second computer via the communication network; and

determining whether the first computer is authorized as a function of the user input included in the reply.

9. (Previously presented) The medium of claim 1 wherein instructions for storing files includes instructions for retrieving storage amount data and file storage data from a destination database, said storage amount data defining a maximum amount of storage space available on the second computer for storing files transferred from the first computer, and said file storage data specifying a current amount of storage space on the second computer being used for storing files from the first computer, and wherein instructions for storing files further comparing the storage amount data to file storage data to determine if storage space is available, and wherein the back-up copies of the one or more designated files stored on the portable computer readable storage medium are stored on the second computer if storage space is determined to be available.

10. (Previously presented) The medium of claim 1, wherein instructions for designating files for transfer further includes instructions for:

designating a destination identifier associated with the second computer;

designating storage schedule data for back-up copies; and
storing the back-up copies of the designated one or more files, the designated destination identifier, and/or the designated storage schedule data in an originating database.

11. (Previously presented): The medium of claim 10, wherein instructions for designating files includes instructions for displaying a first input form on a display linked to the first computer, said first input form receiving input data from a user, and said input data designating the one or more files to be copied and transferred to the second computer, designating the one or more back-up times, and/or designating the destination identifier.

12. (Currently amended): The medium of claim 1 further comprising instructions for:
retrieving identifying one or more stored files from on the second computer in response to a retrieval request received from the originating userthe first computer;
determining a total size of the stored files to be retrieved and being transferred from the second computer to the first computer;
indicating whether to transfer the designated files from the second computer to the first computer via the network or whether to transfer the files from the second computer to the first computer via the portable computer readable storage medium based on the determined total size of the files being transferred; and
transferring based on the indicating the designated files from the first computer to the destination computer via the Internet and not via the portable computer readable storage medium or transferring the designated files from the first computer to the

portable computer readable storage medium and not via the Internet, transferring the retrieved files to the portable computer readable storage medium; and
delivering the portable computer readable storage medium to the originating user.

13. (Currently amended) A tangible computer readable storage medium having computer executable instructions being executed by a processor for facilitating the transfer of back-up copies of one or more files from a first computer via a communications network including the Internet to a destination computer remote from the first computer[[;]], comprising: instructions for:

designating files from the first computer for which back-up copies will be transferred to the destination computer;

instructions for receiving, at the first computer, user input defining a destination identification data;

instructions for identifying a location of the destination computer as a function of the defined identification data;

instructions for determining a total size of the designated files being transferred from the first computer to the destination computer;

instructions for indicating whether to transfer the designated files from the first computer to the destination computer via the network or whether to transfer the files from the first computer to the destination computer via the portable computer readable storage medium based on the determined total size of the files being transferred;

instructions responsive to the indicating instructions for transferring the designated files from the first computer to the destination computer via the Internet or for transferring the designated files when the transferred files are less than a target amount; transferring the designated files from the first computer directly to a portable computer readable storage medium when the files are greater than the target amount; and transferring the designated files directly from the portable computer readable storage medium to the destination computer when the files are greater than the target amount.

14. (Currently amended) The medium of claim 13 further comprising instructions for permitting a user of the first computer to specify the a target amount of storage space wherein the designated files are transferred from the first computer to the second destination computer via the Internet when a total size of the designated transferred files are less than the user specified target amount and wherein the designated files are not transferred from the first computer directly to a portable computer readable storage medium when the total size of the files is are less than the user specified target amount and wherein the designated files are not transferred directly from the portable computer readable storage medium to the destination computer when the total size of the files is are less than the user specified target amount; and

wherein the designated files are not transferred from the first computer to the destination second computer via the Internet when the total size of the designated transferred files is are greater than the user specified target amount and wherein the designated files are transferred from the first computer directly to a portable computer

readable storage medium when the total size of the designated files is are greater than the user specified target amount and wherein the designated files are transferred directly from the portable computer readable storage medium to the destination computer when the total size of the designated files are is greater than the user specified target amount.

15. (Currently amended) A computer implemented method for facilitating the transfer of back-up copies of one or more files from a first computer via a communications network including the Internet to a destination computer at a remote location from the first computer, comprising:

Identifying identifying a first computer;

Identifying identifying a destination computer;

Providing providing a portable computer readable storage medium removable and separate from the first computer and the destination computer;

designating files from the first computer for which back-up copies will be transferred to the destination computer;

receiving, at the first computer, user input defining destination identification data;

identifying a location of the destination computer via the Internet as a function of the defined identification data;

determining a total size of the designated files being transferred from the first computer to the destination computer;

indicating whether to transfer the designated files from the first computer to the destination computer via the network or whether to transfer the files from the first

computer to the destination computer via the portable computer readable storage medium based on the determined total size of the files being transferred;
in response to the indicating, transferring the designated files from the first computer to the destination computer via the Internet and not via the portable computer readable storage medium or when a total size of the files being transferred is less than a target amount; receiving at the destination computer the transferred files via the Internet, wherein said received files include authentication data for indicating to the destination computer that the first computer is authorized to store back-up copies on the destination computer; transferring the designated files from the first computer to the portable computer readable storage medium and not via the Internet; when the total size of the files being transferred is greater than the target amount; and
when the designated files are transferred to the portable computer readable storage medium, and when transferring the portable computer readable storage medium including the designated files transferred from the first computer has been transferred to the remote location of the destination computer,[[;]] and transferring the designated files from the portable computer readable medium to the destination computer.

16. (Currently amended) The method of claim 15 further comprising designating by a user of the first computer a the target amount of total size wherein when the instructions for determining indicate that the total size of the designated files being transferred from the first computer to the destination computer is less than the target amount, the designated files are transferred from the first computer to the destination

computer via the network and wherein when the instructions for determining indicate that the total size of the designated files being transferred from the first computer to the destination computer is greater than the target amount, the designated files are transferred from the first computer to the destination computer via the portable computer readable storage medium.

17. (Currently amended) The method of claim [[15]] 16 further comprising identifying files on the destination computer to be restored to the first computer including:

transferring the files to be restored from the destination computer to the first computer via the Internet when a total size of the files being transferred is less than the target amount;

receiving at the first computer the transferred files to be restored via the Internet;

transferring the files to be restored from the destination computer to the portable computer readable storage medium when the total size of the files being transferred is greater than the target amount; and

receiving at the first computer the transferred files to be restored via the portable computer readable storage medium.

18. (Canceled)

19. (Canceled)

20. (Canceled)

21. (Canceled)

22. (Currently amended) A computer implemented method for facilitating the transfer of back-up copies of one or more files from a first computer via a communications network including the Internet to a destination computer, comprising:

identifying a first computer;

identifying a destination computer;

providing a portable computer readable storage medium removable and separate from the first computer and the destination computer;

using a first computer readable storage medium ~~having computer executable instructions executed by the first computer, said instructions for:~~

~~designating by a first user of the first computer a target amount;~~

designating files from the first computer for which back-up copies will be transferred to the destination computer, said designating by the first user of the first computer;

receiving, at the first computer, user input defining destination identification data;

identifying by the first user of the first computer a location of the destination computer via the Internet as a function of the defined identification data;

determining a total size of the designated files being transferred from the first computer to the destination computer;

indicating whether to transfer the designated files from the first computer to the destination computer via the network or whether to transfer the files from the first computer to the destination computer via the portable computer readable storage medium based on the determined total size of the files being transferred;

in response to the indicating transferring the designated files from the first computer to the destination computer via the Internet and not via the portable computer readable storage medium or transferring the designated files from the first computer to the portable computer readable storage medium and not via the Internet;

~~when a total size of the files being transferred is less than the target amount designated by the user of the first computer wherein the designated files are not transferred to the portable computer readable medium when a total size of the files being transferred is less than the target amount designated by the user of the first computer;~~

~~transferring the designated files from the first computer to the portable computer readable storage medium when the total size of the files being transferred is greater than the target amount designated by the user of the first computer wherein the designated files are not transferred from the first computer to the destination computer via the Internet when the total size of the files being transferred is greater than the target amount designated by the user of the first computer;~~

using a second computer readable storage medium having computer executable instructions executed by the second destination computer, said instructions for:

~~receiving at the destination computer the transferred files from the first computer via the Internet and not via the portable computer readable storage medium; and when a total size of the files being transferred is less than the target amount designated by the user of the first computer, wherein said received files include authentication data for~~

~~indicating to the destination computer that the first computer is authorized to store back-up copies on the destination computer;~~

~~receiving at the destination computer the transferred files from the portable computer readable storage medium and not via the Internet when a total size of the files being transferred is greater than the target amount designated by the user of the first computer, wherein said received files include authentication data for indicating to the destination computer that the first computer is authorized to store back-up copies on the destination computer.~~

23. (New) A tangible computer readable storage medium having computer executable instructions being executed by a processor for facilitating the transfer of back-up data of files or folders via the Internet from a first computer to a destination computer remote from the first computer, wherein the back-up data are determined to be too large to initially transfer via the Internet, said medium comprising:

instructions for designating files or folders from the first computer for which back-up data will be transferred to the destination computer;

instructions for identifying a location of the destination computer;

instructions for determining a total size of the designated files being transferred from the first computer to the destination computer;

instructions for indicating whether to transfer the designated files from the first computer to the destination computer via the network or whether to transfer the files from the first computer to the destination computer via the portable computer readable

storage medium based on the determined total size of the designated files being transferred;

instructions for initially transferring the designated files or folders from the first computer to a portable computer readable storage medium so that the files or folders are capable of being transferred from the portable computer readable storage medium to the destination computer wherein the designated files or folders are not initially transferred via the Internet;

instructions for subsequently transferring back-up data of the designated files or folders from the first computer to the destination computer via the Internet and not via the portable computer readable storage medium.

The purpose of the above changes is to meet the requirements under 35 U.S.C. 112 and 35 U.S.C. 101 in order to expedite the application onto allowance.

Allowable subject matter

Claims 1, 3-17, 22, 23 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art neither discloses nor suggests the following limitations, in combination with the remaining elements as disclosed in the claims:

instructions or steps for determining a total size of the designated files being transferred from the first computer to the destination computer;

instructions or steps for indicating whether to transfer the designated files from the first computer to the destination computer via the network or whether to transfer the files from the first computer to the destination computer via the portable computer

readable storage medium based on the determined total size of the designated files being transferred.

The closest reference Haff (6,219,669) teaches a system comprising multiple computers and devices wherein the files at one of the computers can be transferred to another computer or device. However, Haff does not disclose the steps or instructions having the limitations as shown above.

Proper motivation has not been found in any references for combining the limitations to teach the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Wilson Lee whose telephone number is (571) 272-1824.

Papers related to the application may be submitted by facsimile transmission. Any transmission not to be considered an official response must be clearly marked "DRAFT". The official fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

Application/Control Number:
10/814,683
Art Unit: 2163

Page 18

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Wilson Lee
Primary Examiner
U.S. Patent & Trademark Office

1/17/08